UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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NICOLE MORRISON AS ADMINISTRATOR FOR THE ESTATE OF ROBERTO GRANT AND AS MOTHER AND LEGAL GUARDIAN FOR THE PROPERTY OF SG AND AG, DECEDENTS MINOR CHILDREN,

PLAINTIFF,

-against-

Case No.:
17 Civ:6779

UNITED STATES OF AMERICA, FEDERAL BUREAU OF PRISONS, EXECUTIVE ASSISTANT LEE PLOURDE, CORRECTION OFFICER KERNS AND JOHN AND JANE DOE(S) AGENTS, SERVANTS AND EMPLOYEES OF DEFENDANTS,

DEFENDANTS.
----------X

DATE: March 24, 2021
TIME: 10:03 A.M.

DEPOSITION of a Medical Expert by a Witness, DR. GILL, taken by the Plaintiff, pursuant to a Court Order and to the Federal Rules of Civil Procedure, held at the above date and time, before Lenaya Lynch, a Notary Public of the State of New York.

A P P E A R A N C E S:

THE LAW OFFICE OF ANDREW LAUFER, ESQ.
Attorneys for the Plaintiffs
NICOLE MORRISON as ADMINISTRATOR
for the ESTATE of ROBERTO GRANT
and as Mother and Legal Guardian
for the Property of SG and AG,
Decedent's Minor Children
264 West 40th Street, Suite 604
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BY: ANDREW C. LAUFER, ESQ.

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BUREAU OF PRISONS, EXECUTIVE
ASSISTANT LEE PLOURDE, CORRECTION
OFFICER KERNS AND JOHN AND JANE
DOE(S) AGENTS, SERVANTS AND
EMPLOYEES OF THE DEFENDANTS
US Attorney's Office
86 Chambers Street, 3rd Floor
New York, New York 10007
BY: JENNIFER C. SIMON, ESQ.

ALSO PRESENT:

LUCAS ISSACHAROFF, ESQ.

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *

DR. J. GILL

D R. J A M E S G I L L, called as a witness, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. LAUFER:

Q. Please state your name for the record.

A. James Gill.

Q. What is your address?

A. 17 Otter Cove Drive, Old Saybrook, Connecticut 06475.

Q. Good morning, Dr. Gill.

A. Good morning.

Q. My name is Andrew Laufer. I'm an attorney. I represent Nicole Morrison as administrator for the Estate of Roberto Grant. I'll be asking you some questions regarding that. Please note that all of your responses to my questions must be in verbal form. No nodding or shaking of the head as the Court Reporter can't take that down.

I know that you've probably

heard all of these instructions before but as a matter of course, I'm just going to go through them again. Please wait for me to ask my question first before you begin your response as the Court Reporter can't take us down at the same time. If, at any time, you want to take a break, speak with Counsel or for any other reason, that's just fine. Dr. Gill, are you currently employed?

A. Yes, I am.

Q. Where are you currently employed?

A. The State of Connecticut.

Q. In what capacity?

A. I'm a chief medical examiner for the State of Connecticut.

Q. Can you briefly describe for me, even though it seems obvious, what your duties and responsibilities are, in general?

A. I have administrative duties at the office but I also perform death investigations and autopsies.

DR. J. GILL

Q. Does the State of Connecticut allow you to be hired privately in matters such as this?

A. Yes.

Q. Were you, in fact, hired by the United States Attorney's Office to act as an expert on their behalf in this case?

A. Yes, I was retained by them.

Q. Were you paid for this retention?

A. Yes.

Q. How much were you paid?

A. I think so far, I probably billed about 7,000 dollars or something in that ballpark.

Q. Have you worked for the United States Attorney's Office before?

A. I've been called to testify for them before and I have been retained by them before, yes.

Q. Do you recall how many times?

A. No.

Q. How long have you been -- I'm assuming that you're a forensic pathologist

as well, correct?

A. Correct.

Q. How long have you been a forensic pathologist for?

A. Since July -- well, since '97, '98. I think I got boarded in '98.

Q. That was my next question, are you board certified as a forensics pathologist?

A. Yes.

Q. Where are you board certified?

A. By the American academy of -- sorry, the American Board of Pathology, board of anatomic and forensic pathology.

Q. What state or states are you licensed to practice medicine?

A. New York and Connecticut.

Q. Have you practiced medicine in New York before?

A. Yes.

Q. In the capacity of prior employment by the United States Attorney's Office, have you been retained revolving wrongful death cases?

DR. J. GILL

A. I think most of them are kind of criminal matters but yeah, I think generally, they're criminal.

Q. Not in the civil realm so much?

A. Not so much, no.

Q. Have you given testimony in the civil realm in relation to wrongful death cases in your career?

A. Yes.

Q. Can you approximate how many times?

A. I'm not sure -- for wrongful death, you mean a malpractice type thing?

Q. Anything. Yeah, malpractice or you know, murder or anything.

A. It probably -- yeah, dozens of times.

Q. You've testified in various different jurisdictions?

A. Yes.

Q. Outside of Connecticut and New York?

A. Correct.

Q. In conjunction with this

particular matter, were you provided any types of materials by the United States Attorney's Office to review which you used in the formation of your opinions in your report of February 5th, 2021?

A. Yes.

Q. Could you tell me what materials you were provided by the United States Attorney's Office?

A. Sure. I'm going to refer to my reports.

Q. That's fine. I guess for the record, we'll agree that we're all looking at your report right now of February 5th of 2021?

A. Correct.

MS. SIMON: Just do you want to mark that as an exhibit just for clarity later?

MR. LAUFER: Why don't we mark that as Plaintiff's Exhibit 1?

(Whereupon, Dr. Gill's February 5th, 2021 Report was marked as Plaintiff's Exhibit 1 for

DR. J. GILL

identification as of this date by the Reporter.)

Q. Are you ready for me?

A. Yep.

Q. Okay, just tell me the documents that you reviewed in furtherance of writing your report of February 5th that was provided to you?

A. Yes, so the New York City Office of Chief Medical Examiner, their autopsy report, neuropathology report, case notes, essentially a file that they sent including the autopsy images and the radiographs and the autopsy notes, toxicology reports, the OCME hospital report of death form, medical records from New York Presbyterian Hospital, Bureau of Prisons and Health Services' medical records, the FBI 302 investigative reports, inmate incident report, Metropolitan Correction Center staff memos, New York State Department of Correctional Services health services and the plaintiff disclosure.

DR. J. GILL

Q. Were these the complete documents and all of the information that you reviewed and you used to form the basis of your report?

A. I believe so, yes.

Q. Is there anything else that you used aside from what you have listed here?

A. No.

Q. Did you take any notes during the course and scope of drafting this report?

A. No.

Q. Did you take any notes in preparation for this deposition today?

A. No.

Q. Did you make any notes at all in your review of this particular incident?

A. No.

Q. So let's start with regard to what you had actually reviewed. Could you tell me what synopsis you came up with with regard to what occurred regarding Mr. Grant?

MS. SIMON: Objection. You

DR. J. GILL

should be more -- I'm not quite sure what you mean by what synopsis. You have his report.

MR. LAUFER: Right, I want to kinda go through his report and I was going to start asking him a few other questions about his conclusions. We're not getting to his opinions yet. All right, let me rephrase that. That might be better.

Q. What information, from the documents that you've just listed, did you use to derive the synopsis that you list here on Page 1 of your report?

A. Well, it varied. I mean there are different parts that went into different parts of the report.

Q. Fine. It seems as if you focused on his medical history of cardiac issues. Chest pain, shortness of breath, things of that nature from about five years prior to this incident, is that correct?

MS. SIMON: Objection to form.

A. I did describe his past medical

history of intermittent chest pain and shortness of breath with exertion and his anemia, yes.

Q. Right. And that was diagnosed back in May of 2010, correct, according to your report?

A. I don't recall the exact dates but yeah, he had a treadmill test on -- 2011.

Q. That was a normal stress test, is that correct?

A. Correct.

Q. With regard to cardiac issues, they can resolve, is that correct, during the course and scope of someone's life?

A. It depends upon the cardiac event that you're talking about.

Q. I'm talking about specifically what's referred to here regarding Mr. Grant. These types of issues with regard to what you had listed as his past medical history, shortness of breath with exertion, those types of things can resolve, can they not? Naturally.

DR. J. GILL

A. Well, they're intermittent. So they can come and go.

Q. It's not something that's chronic that can be there for the rest of his life necessarily?

A. It depends what's causing them. If what's causing them is a chronic disease, then yeah, they're going to be coming and going.

Q. I'll represent to you that my client was found unconscious on May 18th, 2015 at approximately 23:40 hours within his tier. CPR was performed on him. Can you describe for me how one properly performs CPR, what technique is used?

A. You know, it's getting a little bit out of my area of expertise. I mean obviously, I've had training in CPR many years ago but in general, you follow the ABC's. Airway, breathing, circulation and you try and maintain the ventilation and oxygenation as well as the circulation.

Q. But you did opine that in your report, did you not, that some of Mr.

Grant's, if not all of Mr. Grant's neck injuries, were caused by the performance of CPR on him, did you not?

A. Yes, I did.

Q. What is your understanding of how to perform CPR properly?

A. Well, proper CPR means that you're able to continue the circulation and ventilate the patient.

Q. How does one go about doing that, specifically?

A. Well, I mean there's a whole algorithm and protocol but you establish an artificial ventilation respiratory system and then you try and either convert the heart back into a normal rhythm with electricity or you do CPR or chest compressions to try and maintain the circulation.

Q. Chest compressions means putting pressure on the chest cavity itself to restart a sinus rhythm, is that correct?

A. No.

Q. What does it mean then? You

can describe for me what that means.

A. It means you're trying to just pump the heart yourself with your hands. It has nothing to do with the rhythm or restarting it but you need electricity to do that. You're trying to keep the heart pumping by pushing on it, by pumping the blood to the brain and so forth to keep the circulation artificially maintained until you can restart the heart.

Q. What about clearing airwaves, is that part of doing CPR?

A. Assessing the airway, making sure there's no blockages initially and then yes -- then you need to -- because the person's not breathing, you need to artificially get air into their lungs and get it back out. So that would be part of CPR.

Q. How does one go about doing that?

A. There are a variety of ways. You can do mouth-to-mouth resuscitation or you can put in a breathing tube or a mask

with a bag to try and do that.

Q. Do you know how that was done while first responders initially found Mr. Grant and instituted CPR on him, as the one you did in your report?

A. As I recall, there was mention of a masked tube that was forcibly, initially put in. Ultimately, he did have an endotracheal tube because that was what was found at autopsy.

Q. Well, the endotracheal tube is usually put in at the hospital or by EMS, is it not?

A. It can be a medic/ambulance person, hospital, yes.

Q. The EMT or something like that. Did you read any information that mouth-to-mouth resuscitation was actually performed on my client?

A. I don't recall seeing anything about mouth-to-mouth resuscitation, no.

Q. While performing some sort of mouth-to-mouth resuscitation, does that require compression be placed on either

side of the victim's neck against where the carotid arteries are located?

A. You may put tracheal pressure when you're intubating someone but as far as mouth-to-mouth, no.

Q. Does that also mean putting pressure on the trachea itself externally to perform mouth-to-mouth resuscitation?

MS. SIMON: Objection to form. Can you clarify what we're talking about, are we talking about -- maybe you can just re-ask that one.

Q. When performing CPR, mouth-to-mouth resuscitation is part of doing that, performing that activity, putting pressure on the trachea externally?

A. No, that wouldn't be part of it.

Q. How about putting pressure on the hyoid bone?

A. No, that wouldn't be part of it.

Q. Now merely because someone may have a chronic condition like a heart

condition or high blood pressure for that matter, I believe Mr. Grant suffered from high blood pressure, that doesn't mean that that is necessarily the cause of one's death, would you agree with that statement?

A. It's a potential cause and you need to look at the entire case and put it all together to make the final diagnosis.

Q. Potential, sure, but someone could also be murdered too. I mean if there's evidence to show that maybe they suffered blunt force trauma or strangulation, would you agree with that?

A. That's why I said you need to look at the whole picture, correct.

Q. Strangulation can also cause cardiac arrest, can it not?

A. Cardiac arrest means you're dead so anything that's going to cause your death is going to cause cardiac arrest.

Q. Of course, and strangulation is one of those things as well, right?

A. Yes.

Q. Can strangulation also cause a

compression of the hyoid bone?

A. Yes, it can.

Q. Mr. Grant's hyoid bone was found to be compressed in this particular instance, was it not?

A. I don't think I can make that conclusion.

Q. Did you review the medical reports and the notes, as you stated earlier, and the coroner's report?

A. Yes, I did.

Q. Did you notice, in any of those documents, that there was compression of the hyoid bone?

A. There's hemorrhage around the hyoid bone but that doesn't necessarily mean compression.

Q. I understand that but did you review any documents which stated that there was compression of the hyoid bone? That's my question to you.

A. I don't recall. You would have to point it out to me. I don't recall specifically.

DR. J. GILL

Q. You would agree that a hyoid bone doesn't necessarily need to fracture in order for someone to be choked to death?

A. That's correct.

Q. It can be just merely compressed, is that correct?

A. Correct.

Q. Would you agree that pericarotid artery hemorrhages bilaterally is not usually something that occurs when performing CPR?

A. Again, let's be clear about CPR. I mean if you're talking about CPR, which includes potentially intubation and so forth, then I would say yes, it can happen but if you're just talking about mouth-to-mouth resuscitation, I would say no.

Q. Do you know whether or not Mr. Grant was intubated while he was at the prison?

A. I recall a mask with some type of tube that was placed in it but I don't know when the actual intubation happened.

DR. J. GILL

Q. How about distention of neck veins and temporal vessels, would that occur during the performance of CPR?

A. Yes.

Q. How about petechial hemorrhages of the eyes and soft tissue and muscle, would that occur as a result of the performance of CPR?

A. Yes.

Q. Could that also occur when someone's being strangled?

A. Yes.

Q. Can distention of the neck, veins and temporal vessels also occur as a result of someone being strangled?

A. Yes.

Q. You also stated, in your opinion, that there was some minor blunt injuries, hemorrhages under the scalp but there was more than just hemorrhages under the scalp with regard to blunt force trauma in this instance, wasn't there?

A. There was some bruising I think at the shoulder. I'm not sure what else.

DR. J. GILL

There were no fractures or anything like that.

MR. LAUFER: I understand. I'm going to draw your attention -- we'll mark it as Plaintiff's 2 -- the Office of the Medical Examiner, City of New York autopsy report.

(Whereupon, Office of the Medical Examiner, City of New York Autopsy Report was marked as Plaintiff's Exhibit 2 for identification as of this date by the Reporter.)

Q. Let me know when you're ready.

A. Yes, I'm ready.

Q. You would notice under final diagnosis, the first page here. Number 1, blunt force trauma of head, neck, torso and extremities. You would agree that that's a little bit greater than what you had stated in your report as under Number 5, the conclusion, there were minor blunt injuries?

MS. SIMON: Objection.

DR. J. GILL

A. No. I mean that's describing where they are but I mean it's degree of the blunt injuries that I'm talking about. Not to where they are, no.

Q. Well, you would agree that head, neck, torso and extremities covers basically the entire body, does it not?

A. Well, it doesn't cover all the extremities but some of the extremities, yes.

Q. Well, they say extremities. They don't specify, do they?

MS. SIMON: Objection.

A. I don't know. You would have to look through the actual diagnosis.

Q. Let's go down to M. They have a conclusion of final diagnosis of hemorrhage, left forearm muscle, right elbow. Left forearm muscle -- it looks like five inch hemorrhage. Would you agree with that?

A. I have no reason to disagree with it.

Q. Right elbow, a half inch

hemorrhage?

A. Correct.

Q. Left shoulder, four inch hemorrhage?

A. Correct.

Q. Right lateral chest soft tissue, one inch hemorrhage, would you agree with that?

A. Yes.

Q. Would you agree that those injuries are significant?

A. It depends what you mean by significant.

Q. Well, as to type of blunt force as to the fact that the decedent suffered from blunt force trauma.

A. I'm not sure that they're all due to blunt force trauma, frankly.

Q. Well, I understand that but this is the conclusion of the New York City medical examiner's office that these hemorrhages existed?

A. Correct.

Q. That in general, when someone

suffers a heart attack, they don't have this type of hemorrhage, the way it's described here under M, throughout their body, does it?

A. It depends. It depends on many factors.

Q. There was also a tracheal ring hemorrhage under Letter H and they're claiming it's large, the medical examiner's office. What causes that?

A. Force to that area, blunt force.

Q. Could that also include strangulation?

A. It could include that, yes.

Q. There's also evidence of deep lung pericardial laceration, one inch, left lower lobe. Could that also be caused by blunt force trauma?

A. By definition, a laceration is blunt force trauma. I think that injury is actually an artifact of the autopsy. I just can't see how you could get a laceration to surface at the lung without a

rib fracture frankly. So I really don't know what to make of that frankly.

Q. Well, I mean it's possible that that can happen if someone is struck in the ribs, could it not?

A. To lacerate the lung, no. I mean you may get some bruising but you're not going to lacerate the lung from a blow to the chest, no.

Q. Well, not necessarily to the chest. You don't need to blow someone to the chest. They could be struck at the torso, the rib level multiple times and that can cause that type of injury, could it not?

A. Not a laceration, no.

Q. You would agree that the toxicology report was negative with regard to any drugs found in my client's system, correct?

A. I would agree that they did not detect any drugs in the system.

Q. You're aware of what standard of care is, right, the phrase standard of

care?

A. In general.

Q. Back in 2015, the type of tests that were run by those examining Mr. Grant's body were the ones that were generally used in the course and scope of making these kinds of determinations with regard to any kind of toxicology?

A. Yes, I think that's a fair statement.

Q. You had also stated that you had reviewed some 302's and some witness statements from the prisoners?

A. Yes.

Q. Did you find them all consistent, were there any inconsistencies in those statements about Mr. Grant prior to him collapsing?

A. Yeah, I think you're always going to find little inconsistencies but I think looking at the big picture, everything fit for me.

Q. You don't agree that while one inmate said that he was sitting down and

slumped over and then one inmate said that he was standing up and then fell to the ground is a significant inconsistency?

A. No.

Q. You don't find it inconsistent that one inmate said that he was having a full conversation and then fell over and another stating that he was completely silent and then slumped over?

A. No.

Q. Let's go to your opinions here. I'll ask again, we'll start with one. While you state that enlargement of heart can cause a fatal arrhythmia, there was no indication that Mr. Grant was suffering from any kind of arrythmia or any other kind of similar condition at the time of his death?

A. I would disagree with that.

Q. That he was suffering from arrythmia, did you review any records to show that he was suffering at the time from an arrythmia?

A. Yeah, he had a sudden death.

DR. J. GILL

That's from an arrhythmia.

Q. Well, I understand that's your opinion but I'm talking about past medical history. Was this something that was just acute that just occurred right at his death or was he suffering from an arrhythmia; prior to him passing away, did you review any medical records that had indicated that?

A. There wouldn't be any medical records showing an arrythmia. What you're looking for is anatomical substrate that would explain an arrhythmia. I can't see -- no one can see an arrhythmia at autopsy. So you're looking for a disease that's the extent -- that would explain a sudden cardiac death and he has two components of that, the hypertensive cardiovascular disease which by itself, would explain a sudden death. I've seen people drop dead with this exact same heart disease. As well as the coronary artery disease. So he has two types of heart disease that both can cause a sudden unexpected death --

DR. J. GILL

Q. Right, but --

A. -- cause a sudden arrhythmia.

Q. I apologize for interrupting you. You could also detect diagnostically an arrythmia, could you not, a heart arrhythmia prior to someone dropping dead?

A. Well, I mean if you have an EKG hooked up to them, you can. Sure.

Q. An EKG is something that would detect something like that, would it not?

A. That's what it's meant to do, check the heart rhythm. Yes.

Q. If someone is suffering from atrial fibrillation or any other kind of heart pathology, an EKG would do that, would it not?

MS. SIMON: Objection. Maybe you can just clarify, you're talking about before someone dies. If you could indicate in your question at what point in time that we're talking about.

MR. LAUFER: Any time. It doesn't matter.

DR. J. GILL

Q. Before they die, if they're hooked up to an EKG machine, especially someone with a history of heart issues, this would be something that would be done periodically, would it not, to ascertain the rhythm of the heart?

A. Yeah, people can have a completely normal EKG during their -- when they're not symptomatic or not having a problem. When you're having this irregular rhythm, it's like turning off a light switch. You have a totally normal rhythm and then all of a sudden, it goes into an irregular rhythm and the person loses consciousness and dies.

Q. I completely understand --

A. So an EKG, a minute before this happened was probably going to show a normal rhythm.

Q. That's not my question. My question is was there any indication in this gentleman's history, Mr. Grant's history, where an EKG demonstrated that he was suffering from a heart arrhythmia?

DR. J. GILL

A. No, and that's not unusual. We don't -- many people have normal EKG's and then drop dead with that normal EKG the next day.

Q. But many individuals who also drop dead, as you had described, also don't have blunt force trauma throughout their body, do they?

MS. SIMON: Objection to form.

A. Some of them do.

Q. You're saying that someone whose arrythmia was never detected and they suddenly just collapse and die and throughout their body, they suddenly have blunt force trauma throughout their head, torso and extremities?

A. I mean I think throughout their body -- technically, you're correct but we're talking about a little hemorrhage in the arm which is probably from a intravenous line that they put. He had a collapse which could cause injury. We see blunt injuries on people with unprotected falls from cardiac deaths everyday. When

someone has a cardiac event, they collapse, they hit their head on the floor. They get a laceration. That is very common to see. We're not talking about bruises all over the place, fractures, lacerations, abrasions. We're talking about some bruising.

Q. I understand that. Some bruising not just to the left forearm muscle -- which is five inches, which is large -- right elbow, left shoulder and right lateral chest soft tissues. We're not just talking about one on his arm, we're talking about throughout his body. I mean you would agree that the medical examiner's report is probably the most accurate about what occurred here, would you not?

A. It certainly describes the injuries but you know, the elbow is a common place for a falling type injury. A person collapses, their elbow hits something. Their shoulder, you see -- you can see hemorrhage on the chest from CPR.

DR. J. GILL

So they're all blunt injuries because it's blunt force even though it's from CPR.

Q. How about hyoid bone compression; would you agree that people that usually collapse suddenly from this type of an affliction, that you're basing your opinion on, generally don't have compression of their hyoid bone?

A. Again, they generally don't have hemorrhage or compression around the hyoid bone unless they've been attempted at resuscitation.

Q. They generally don't have petechial hemorrhages of the eyes and preorbital soft tissue and muscle, you would agree with that, right, generally?

A. It depends what they're dying of. You can get petechia from other causes.

Q. Right, like oxygen deprivation could cause that, could it not?

A. No.

Q. How about straining from being choked to death, could that cause those

types of afflictions?

A. It's more of an interruption in the blood supply to the head where you're interfering with the blood returning to the heart. That's what causes petechia.

Q. And strangulation could cause that, could it not?

A. Yes.

Q. Pressure on the carotid arteries could prevent blood from going to the brain, could it not?

A. Correct.

Q. That could cause these types of injuries, could it not?

A. No. Pressure on the carotid artery wouldn't cause petechia.

Q. Bilaterally on the carotid artery and the trachea?

A. No.

Q. Your basis on saying that the decedent was lucid before he died was just on the statements of prisoners, was it not?

A. Yes.

Q. Not on any medical personnel?

DR. J. GILL

A. I don't think there were any medical personnel there.

Q. Let's talk a little bit about the toxicology report, your finding under Number 4. You stated that no synthetic cannabinoids were detected in the toxicology test. You would agree with that, right?

A. Correct.

Q. In 2014, there were over 170 different known synthetic cannabinoids. You would agree with that statement, correct?

A. Yes.

Q. But you understand that the year of death was 2015, was it not?

A. Yes.

Q. Did the testing change from 2014 to 2015 with regard to testing for synthetic cannabinoids?

A. I think we're talking about two different things. MS was -- what they tested for in 2015 were for 32 of them but prior to that testing, there were over 170.

DR. J. GILL

They just didn't test for all 170. They only tested for 32 of them.

Q. But you would agree that that was a standard that NMS Labs would use in testing for cannabinoid use back in 2015?

A. From the report, those are the ones that they were able to detect. They weren't able to detect all 170.

Q. I understand that but they also may not have found it necessary to test for 170 because they may have been similar enough to the 32 general ones that they tested for, is that correct?

MS. SIMON: Objection to form.

Q. You can answer the question.

A. I think it's getting a little bit out of my area of expertise but my -- any toxicology lab is -- the more they can test and identify, they will. I mean I've spoken to people at NMS and they're looking to try and be able to identify more and more of these but it's tough to get samples and so forth.

Q. Well, synthetic cannabinoids

are also outside the scope of your expertise, is it not?

A. No.

Q. Well, in terms of how many there are, in terms of use and how they're ingested and things of that nature, is that within your expertise?

A. Yeah, that's apart of forensic pathology. We see people abuse these and we have to be able to test for them and diagnose them and interpret them. Sure.

Q. Now let's go to Number 5. You said there was minor blunt injuries, hemorrhages under the scalp of the head but none of them caused or contributed to death. You would agree that the New York City examiner's report didn't refer to any of the blunt force trauma suffered by Mr. Grant as minor, would you not?

A. I would have to look at the report.

Q. But you reviewed the report in furtherance of drafting your report, did you not?

DR. J. GILL

A. Yes, I did.

Q. Let's go to Paragraph 6. Now do you know the plaintiff's expert, Dr. Hua?

A. Yes.

Q. Have you worked with him in the past?

A. Yes.

Q. What is your opinion of Dr. Hua?

A. He's a New York board certified forensic pathologist.

Q. Do you respect his work?

A. I'm not that familiar with all his work.

Q. How about the medical examiner, Jennifer L. Hammers, are you familiar with her?

A. Yes.

Q. Have you worked with her before?

A. Yes.

Q. Do you respect her work?

A. From the report I've seen here,

it seems pretty complete.

Q. You don't think that she misrepresented anything or lied or anything like that in the report?

A. No.

Q. You mentioned in this Paragraph 6, hypertensive and/or atherosclerotic cardiovascular disease are well-recognized as causes of sudden death. You stated that, correct?

A. Yes.

Q. But it doesn't necessarily mean that that is what Mr. Grant passed away from, this is just your opinion?

A. No, those are facts. I mean people die everyday from those diseases and it's a matter of looking at the whole picture and putting it all together and not just -- you can't look at the autopsy in a vacuum. You need to look at the circumstances surrounding it otherwise, you may misinterpret findings at autopsy.

Q. Like the various blunt force trauma the decedent may have suffered from,

correct?

A. There's blunt force trauma there. The question is what caused it.

Q. Bilateral compression of the carotid arteries, correct?

A. There's hemorrhage around the carotid arteries.

Q. And the tracheal rings as well?

A. Correct.

Q. The petechial hemorrhages of the eyes and soft tissues, you would agree that that's significant as well, correct?

A. It can be. We see it pretty frequently. Again, you need to interpret those in the context of the entire case.

Q. You would agree that the medical records that you reviewed regarding Mr. Grant's cardiovascular issues were from 2010 and 2011, is that correct?

A. I believe so, yes.

Q. Did you review any other cardiovascular medical records or history regarding Mr. Grant's heart from 2011 to the date of his death in 2015?

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A. I mean the autopsy report which showed it but no, I don't remember any other medical records.

Q. So there's a four year gap there up until the autopsy report, is there not, regarding any type of history regarding Mr. Grant's heart?

A. I don't recall all the dates but that's probably fair.

Q. I'm going to turn to some prior deposition testimony that you gave in previous cases. I noticed that on your CV, I don't think that you listed any of your prior deposition testimony, is that correct?

A. No, correct.

Q. I would like to draw your attention to a case from the appellate court of Illinois, Greco, the Orthopedic and Sports Medicine Clinic, PC, do you recall testifying at trial for this particular case back in 2015?

A. Yes.

Q. Do you recall giving testimony

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similar to the testimony that you gave or similar to the report that you gave here in this case regarding sudden death from cardiovascular disease?

MS. SIMON: Objection.

A. I don't recall.

Q. Do you recall the Court finding your testimony had great potential to mislead a jury about causation and invited the Jury to speculate about the decedent's death related to an ankle injury?

A. I don't recall any of that, no.

Q. Do you recall the Court stating that Dr. Gill's testimony floated about untethered and invited nothing more than inappropriate speculation about the cause of decedent's death?

A. I don't recall that.

Q. Do you recall giving testimony that the individual in this particular case died from a pulmonary embolism due to a DVT?

A. I recall -- I think it was a pulmonary embolism case but yes, that's all

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I remember.

Q. Do you recall if that's similar to what you're saying here, like a sudden death of pulmonary embolism can cause sudden death?

A. That's one cause of sudden death, sure. Pulmonary thrombolic embolism, yeah.

Q. You had testified that a severely sprained ankle started a chain of events leading to the DVT?

MS. SIMON: Objection.

A. Again, I don't recall all the specifics.

MS. SIMON: If you want to put his testimony in front of him rather than summarizing it, I don't think that's -- that may be the better way to go about this. If you'd like him to look at the testimony, I --

MR. LAUFER: I'm reading from a court opinion from the appellate division that overturned this case. They're basing their overturning this

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case -- I'll give you the cite too so that you can look it up.

MS. SIMON: I'm suggesting that if you would like to ask the Witness questions about it, provide him with the documents so he can --

MR. LAUFER: Well, I mean he testified in this case so he should -- if he doesn't remember it, he can just say that he doesn't remember. That's fine.

MS. SIMON: Okay.

Q. Would you agree or disagree with this: Fatal natural disease is different from natural disease?

A. Can you repeat that?

Q. Fatal natural disease is different from a natural disease, someone suffering from a natural disease?

A. Yeah, I mean fatal natural disease is natural disease that causes death, you know.

Q. Someone could have some sort of affliction that they're suffering from like

high blood pressure but it may not necessarily cause their death?

A. That's why we do autopsies and investigations to try and sort all those out, right?

Q. Yeah, but in general, you would agree with that statement?

A. Yeah, people can have multiple potential causes of death and we need to do the investigation to figure out what the actual cause is.

Q. You would agree that the findings from the medical examiner, with regards to the negative toxicology finding, means that he did not die from anything related to synthetic cannabinoid use?

MS. SIMON: Objection.

A. No.

Q. So you're disagreeing with Dr. Hammer's conclusion then?

A. I'm disagreeing with the way you phrased it. None were detected but that doesn't mean -- there potentially could have been synthetic cannabinoids

there.

Q. Well, there could potentially have been anything in his blood. I mean we could go theorize till the ends of the earth. It doesn't necessarily mean that they were related to his death.

A. I didn't say that they were. I think he was going to die whether or not he had synthetic cannabinoids or not. If they were there, that certainly would have helped. I think it certainly wouldn't hurt but again, the way you had phrased it is what I took issue with, that it was negative for synthetic cannabinoids. It wasn't. The ones that they tested for, they did not detect.

Q. So again, I'll revisit this. Merely because someone may have high blood pressure, and it's a non-fatal status, doesn't mean that it suddenly became an acute fatal status, is that correct?

MS. SIMON: Objection.

A. Hypertensive cardiovascular disease is a potentially fatal disease by

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itself. We see it happen very commonly and it doesn't mean that -- you can't predict when it's going to happen but it is a potentially fatal disease.

Q. You can't predict when it's going to happen but you can't predict if it's going to happen either, would you agree with that?

A. I can't predict in anyone what they're going to die from, no.

Q. Let's hope we don't suddenly find ourselves imbued with that power. I think that we had talked a little bit about the blunt force trauma. You would agree that in Dr. Hammer's autopsy report, there's no indication that he suffered from mere minor blunt trauma, she doesn't use that terminology, does she?

MS. SIMON: Objection, asked and answered. If you would like him to review the report and see if that term is used, we can take a minute and do that.

MR. LAUFER: That's fine.

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A. I don't see the words mild -- she uses the word focal in describing some of the hemorrhages and she said she measures them which is, I think, appropriate but when you're interpreting the overall picture, then I think it is fair to use that term of there were minor blunt injuries. Certainly these weren't fractures and lacerations of the aorta and sorts of things like that.

Q. She also stated under the cardiovascular system of the report that there was no recent thrombosis. Can you agree with that?

A. Yes, I have no reason to doubt that.

Q. What is your understanding of what thrombosis is?

A. It's a blood clot in the -- she's talking about in the coronary arteries.

Q. You would agree that the sudden death scenario that you've put forth here usually involve blood clots, do they not?

DR. J. GILL

A. No, I'd disagree with that.

Q. But one of these sudden deaths examples that you gave can deal with blood clots, right?

A. Yeah, a thrombus in a coronary artery is -- certainly can cause sudden death, yes.

Q. And that the coronary arteries are without significant arterial sclerosis, did you find that significant in any way?

A. The remaining coronary arteries are without significant arthrosclerosis but the left main has a 50 percent blockage narrowing.

Q. The first one is a slight 50 percent arthrosclerotic stenosis of the left main coronary artery, right?

A. That's what she describes, yes.

Q. Not a major or moderate?

A. She uses slight, correct.

Q. Do you know what NMS stands for?

A. Yes.

Q. What is that?

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A. It's the name of the toxicology -- National Medical Services I believe it is.

Q. Is that toxicology organization used by most of the medical examiners around the country?

A. I don't know if it's used by most but we certainly use it.

Q. You rely on their findings in determining aspects of your medical examining reports, do you not?

A. Yes.

Q. Do you feel that they made any mistakes with regard to this particular autopsy toxicology aspects report?

A. Do I think they made any mistakes?

Q. Yeah.

A. No, I don't see any mistakes. I'm not an analytical toxicologist but I trust their work.

MR. LAUFER: I have nothing further at this time.

MS. SIMON: If you could just

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give us a minute and let me look at my notes. Just give us five minutes.

(Whereupon, a brief recess was taken at 10:57 a.m. and the examination resumed at 11:02 a.m.)

MS. SIMON: Thanks for that. We don't need to go back on the record. I think that's it.

(Whereupon, at 11:02 A.M., the Examination of this witness was concluded.)

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D E C L A R A T I O N

I hereby certify that having been first duly sworn to testify to the truth, I gave the above testimony.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by me at the time and place specified hereinbefore.

_____

DR. JAMES GILL

Subscribed and sworn to before me this _____ day of _____ 20___.

_____

NOTARY PUBLIC

E X H I B I T S

PLAINTIFF'S EXHIBITS

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	PAGE
Exh 1	Dr. Gill's February 5th, 2021 Report	9
Exh 2	Office of the Medical Examiner, City of New York Autopsy Report	23

(Exhibits were retained by court reporter)

I N D E X

C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF KINGS)

I, LENAYA LYNCH, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of March 2021.

Lenaya Lynch

_____
LENAYA LYNCH

ERRATA SHEET

VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: Morrison, Nicole, Et Al. v. Usa, Et Al.
DATE OF DEPOSITION: 3/24/2021
WITNESSES' NAME: Dr. James Gill

PAGE	LINE (S)	CHANGE	REASON

Dr. James Gill

SUBSCRIBED AND SWORN TO BEFORE ME
THIS ____ DAY OF _____, 20__.

_____ _____
(NOTARY PUBLIC) MY COMMISSION EXPIRES:

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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